



SATELLITE BROADCAST

SELF-MONITOR SCALE

Directions: The following statements concern your personal reactions to a number of different situations. No two statements are alike, so consider each statement carefully before answering. If a statement is **TRUE** or **MOSTLY TRUE** as applied to you, mark a “T”. If a statement is **FALSE** or **MOSTLY FALSE** as applied to you, mark an “F”.

- ___ 1. I find it hard to imitate the behavior of other people.
- ___ 2. My behavior is usually an expression of my true inner feelings, attitudes, and beliefs.
- ___ 3. At parties and social gatherings, I do not attempt to do or say things others will like.
- ___ 4. I can only argue for ideas which I already believe.
- ___ 5. I can make impromptu speeches even on topics about which I have almost no information.
- ___ 6. I guess I put on a show to impress or entertain others.
- ___ 7. When I am uncertain how to act in a social situation, I look to the behavior of others for cues.
- ___ 8. I would probably make a good actor.
- ___ 9. I rarely seek the advice of my friends to choose movies, books, or music.
- ___ 10. I sometimes appear to others to be experiencing deeper emotions than I actually am.
- ___ 11. I laugh more when I watch a comedy with others than when alone.
- ___ 12. In a group of people I am rarely the center of attention.
- ___ 13. In different situations and with different people, I often act like very different persons.
- ___ 14. I am not particularly good at making other people like me.
- ___ 15. Even if I am not enjoying myself, I often pretend to be having a good time.
- ___ 16. I'm not always the person I appear to be.
- ___ 17. I would not change my opinions (or the way I do things) in order to please someone or win their favor.
- ___ 18. I have considered being an entertainer.
- ___ 19. In order to get along and be liked, I tend to be what people expect me to be rather than anything else.
- ___ 20. I have never been good at games like charades or improvisational acting.
- ___ 21. I have trouble changing my behavior to suit different people and situations.
- ___ 22. At a party I let others keep the jokes and stories going.
- ___ 23. I feel a bit awkward in company and do not show up quite as well as I should.
- ___ 24. I can look anyone in the eye and tell a lie with a straight face (if for the right end or result).
- ___ 25. I may deceive people by being friendly when I really dislike them.

Scoring: Circle your answers on the following items: **1,2,3,4,9,12,14,17,20,21,22**, and **23**.

Give yourself 1-point for each of those **circled** items on which you answered **FALSE**.

On the **uncircled** items, give yourself 1-point for each answer of **TRUE**.

Total the points: this is your **“self-monitor”** score.

SCORE: _____

* * * * *

Average score: 12	17-25 -very high	(76-100 %-ile)
	13-16 -high	(51-75 %-ile)
	9-12 --low	(26-50 %-ile)
	0-8 --very low	(0-25 %-ile)

10-14 score Mid-range (characteristics of both “high” and “low”)

40% of the population score 13 or higher

60% of the population score 12 or lower

“IMPRESSION MANAGEMENT” -HIGH AND LOW DIFFERENCES

People vary widely in the degree to which they control their self-presentation, both in their personal lives and their work. Some people self-monitor more often-and with greater skill--than others. But everyone does some self-monitoring. And some people report that they are high self-monitors at work and low self-monitors at home. In general, the differences are noted below.

High Self-Monitors

- ❖ Actively invest time and effort in attempting to "read" others; they tend to be accurate in identifying deception in others.
- ❖ Tend to communicate less about their private attitudes, feelings and dispositions.
- ❖ Often emerge as leaders in groups and organizations; many trial lawyers and politicians are high self-monitors.
- ❖ Suffer little or no shyness. Soon after meeting another person, they take an active and sometimes controlling role in the conversation.
- ❖ Are very aware of their nonverbal behavior and the nonverbal behavior of others.

Low Self-Monitors

- ❖ Tend to accept the behavior of others at face value.

- ❖ Have a firmer, more single-minded idea of what “self” means. They value and strive for a congruence between “who they are” and “what they do” and regard their actions as faithful reflections on how they feel and think.
- ❖ Are less concerned with social and interpersonal “rules” of behavioral appropriateness; are less attentive to the expression of others, and manage their self-presentation to a lesser extent.
- ❖ Self-presentation is generated from within by their life experiences, rather than modeled and tailored to fit situations.
- ❖ Tend to behave as “who they really are” rather than “who others want them to be.”

IMPLICATIONS OF SELF-MONITOR SCORES

Your score on the “Self-Monitor Test” not necessarily conclusive about your style and habits. Any “self-report” instrument is open to semantic problems and subjective judgment calls. However, to the degree that you think your score is a reasonably accurate reflection of your style, the following are possible implications.

Low Self-Monitor (Score: 0-9)

1. Your ongoing communication behavior accurately reflects how you actually think or feel at the moment, regardless of the results in terms of others' perceptions of you.
2. May need to mobilize consciously your self-monitoring in situations where others will act on their perceptions of you.

Mid-Range Self-Monitor (Score: 10-14)

1. You routinely use self-monitoring in situations where you believe it is essential that the impressions others have of you is what you intend.
2. May find self-monitoring for long periods of time stressful and even exhausting--need times to relax impression management and "be yourself" without fear of consequences.
3. You have a track record of successfully using self-monitoring and view it as appropriate in some settings.

High Self-Monitor (Score: 15-25)

1. You have found significant rewards for being a high self-monitor and have the skills to use it continuously almost without conscious thought.
2. May need to identify situations where it is necessary to communicate your thoughts and feelings candidly, regardless of how others may interpret or respond to it.
3. Should differentiate between work-related self-monitoring and interpersonal relationship communication in which impression management may not be a useful goal.

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LOSS OF APPROPRIATE JUDICIAL DEMEANOR Examining The Causes and Cures for “Losing it.”

By David M. Rothman¹

What follows is a new section I have prepared for the *2003 Supplement to the California Judicial Conduct Handbook*. It is being distributed to the students at this years Judicial College in advance of publication. If anyone has any thoughts or corrections, they would be much appreciated.

1. Purpose of this new section.

The text in the *Handbook* sections on Courthouse Demeanor focus on impatience, anger and stress, and contain some guides on the issue of self awareness and the impact on demeanor. See §§ 2.16, 2.41, 2.42, 2.43. In this new section, I will try to examine, more directly and concretely, the causes and solutions to dealing with the hidden land mines of improper judicial demeanor.

2. Definition of proper judicial demeanor.

The Code of Judicial Ethics defines judicial demeanor in several Canons in this way: while requiring a judge to maintain order and decorum in court, the judge must also be patient, dignified and courteous to staff and all of those who appear in the proceedings, and must accord every person with a legal interest the “full right to be heard.” See Canon 3B, discussed in §2.40 above.

3. Why the issue of improper judicial demeanor is so important to judges.

Demeanor problems are the most common subject of discipline. In the Summary of Discipline Statistics of the Commission on Judicial Performance 1990-1999, published in November of 2002, see §1.44 above, demeanor and decorum problems represented the number one basis for findings of judicial misconduct. Indeed if one combines the categories of demeanor, decorum, abuse of contempt and abuse of authority on the bench (all having a common element of improper conduct that could be related to loss of personal control) during this 10 year period, over 27% of all discipline imposed on judges in a recent 10 year period can be attributed to this loss of self control, i.e., the surrender of good judicial demeanor.²

Judicial demeanor problems are common. In all likelihood, demeanor problems of judges are more common than the Annual Reports of the Commission on Judicial Performance reveal. Moreover, I doubt that there is a single judge (including me) in California who has not, at one time or another, under some circumstance (you name the totality of the circumstance) failed to adhere to proper demeanor (as defined in the Canons) and, as a result, sank into an act of improper judicial demeanor as defined below. Far too many judges, however,

¹ In preparing this new section I have had the benefit of kind help from my friend Richard Friedman, M.D., of Santa Monica, a teacher, executive consultant, and psychoanalyst.

² Demeanor issues continue to represent the top levels of judicial misconduct through 2000 through 2002. The most recent and important demeanor case, *In re Van Voorhis*, Comm. Jud. Perf. decision of removal on February 27, 2003, is not final as of the date of publication of this Supplement.

are susceptible to persistent lack of control of demeanor, have a hard time realizing that it is a problem and have a hard time resolving it.

Improper judicial demeanor impacts the fairness of proceedings and respect for the judicial institution. The reasons for strong rules about judicial demeanor and the reason it is important to the Commission on Judicial Performance is that demeanor is one of those things that is central to the appearance of fairness and impartiality in judicial proceedings. A litigant whose case is decided by an impatient and rude judge cannot walk away with a sense that the litigant's case was actually "heard" by that judge, let alone handled with fairness and impartiality.

Moreover, when a judge is out-of-control, testy, angry, abusive and impatient, the message is clear to everyone (lawyers, litigants, jurors, witnesses and staff) that such behavior is appropriate and tolerated. I often hear judges mourn the passing of lawyer courtesy and civility, and that the behavior of modern "litigators" is rude, aggressive, disrespectful to the court, angry and so on. If this is the case, it should not surprise us, since these lawyers may well reflect the worst behavior they observe from the bench. Another side of this same point is the fact that many of those who are before the court are there because they lost control of themselves. It is more than ironic, then, for the judge to also be out of control.

Maintaining decorum and being courteous, patient and dignified provide all participants in the proceedings with a greater satisfaction with the outcome and improves the public's confidence in the judicial institution. This is particularly so when the perception that many people have of our system is the appalling caricature of judicial demeanor of judges on television.

4. Defining "improper judicial demeanor":

Improper judicial demeanor is a non-reflective and emotional-laden (i.e. spontaneous) response by the judge in reaction to courtroom events, which the judge does not filter through a conscious examination of the legitimate judicial goals and objectives.

In this section my focus is on the most common form of improper demeanor - what we might call the more impulsive and negatively expressed form of spontaneous reactions, rather than the inappropriate and sometimes seemingly positive version of such conduct. Both extremes, however, of non-reflective and emotion-laden reactions are important and neither should be ignored: anger, impatience, rudeness, and so on, are the one extreme, and, at the opposite extreme, also serious and inappropriate, are sympathy (as opposed to empathy), indecisiveness, lack of the capacity to control the courtroom environment, need to be liked, fear and inability to decide. All of these are emotional-laden and non-reflective. The causes and solutions apply to all these circumstances, but the emphasis and discussion will focus on the impulsive and negatively expressive form of reaction as it is the most common subject of discipline.

It is worth noting here that often a judge will continue to act inappropriate repeatedly in regard to the same incident, e.g., continuing the same behavior, punishing the attorney in other cases, and essentially not letting go of the matter.

In addition, when judges are prone to engage in inappropriate conduct that is non-reflective and emotion laden, they are opening themselves to being manipulated, baited, by those seeking some advantage in litigation.

5. Non-reflective and emotion-laden conduct.

In the above definition you will note that I speak of this as “non-reflective and emotion-laden” conduct. By way of illustration: in all the hundreds of telephone calls I have gotten over the last 23 years from judges seeking ethics guidance, I have never once received a call from a judge who asked if it was ethical for the judge to berate and demean someone in court. I have canvassed members of the Ethics Committee of the California Judges Association, and they, as well, had never experienced such a call from a judge. Obviously, demeanor misconduct is behavior that does not involve reflection and consideration, but, rather is spontaneous and generally connected to an emotional, not a thoughtful, response to something that is going on in the courtroom.

6. “The loneliness of the long distance runner” and the need for self-examination.

The job of a trial judge, like that of many other high level decision makers in our society, is particularly marked by isolation. The trial judges perform, essentially, alone, with no regular performance reviews or immediate feedback on how they are doing their job. Usually feedback takes place when something goes wrong (with the Commission on Judicial Performance or the voters conducting their very scary version of performance review known as elections), or the court of appeals (at a time very distant from the event) pithily tells a judge that he or she has erred.

Even where you encourage staff feedback, it is rarely provided (you are the boss), and those who appear before you cannot be relied upon to give feedback of any kind. Generally, on a day to day, moment to moment, basis, judges are on their own, and their capacity for self-examination becomes the *critical skill* to successfully navigating in this lonely environment. A judge must learn to see the things that may be obvious (but not commented upon) to others, and that would otherwise go unobserved by the judge absent a capacity for such self-examination.

The judge, alone, has to come to the acceptance of the need to be aware of the things that will interfere with his or her effectiveness. This is not easy and *everyone* has this problem, some more acutely than others. As we are frequently reminded by our judicial educators: “You don’t know what you don’t know,” and the job is to find out.

7. Examining causes of improper judicial demeanor.

Problems of demeanor and decorum take place at a level of consciousness that is not easy to control or anticipate. These problems can stem from narcissism, fear, anger, frustration, stress, impatience, any one of a myriad of personal mental and emotional characteristics, and even systemic feelings by judges that they have less and less control over what they are asked to do, along with feelings of a loss of prestige in the judiciary. These are problems that face us all in the judicial role. One other cause worthy of prominent notice involves the loss of perspective that may happen when achieving a high office that wields great power (i.e., “judgeitis” or “black robe syndrome”) - a loss of the ability to remind ourselves that mere mortals are fallible. See §1.53.

To put this as directly and as simply as I can, you need to not only be aware of your own vulnerabilities or personality (“I am one of those people that becomes angry when someone challenges my authority”), but, probably more usefully put, awareness of the *stresses* that can contribute to the intrusion of emotion. Judges are, indeed, asked to perform an almost super human task in controlling the effects of what are simply ordinary human qualities and vulnerabilities.

8. The signs and symptoms of improper judicial demeanor.

The following might be some of these ordinary human qualities and vulnerabilities (that

everyone experiences) that might be significant to a judge in relation to learning how to gain self-awareness in relation to judicial demeanor, i.e. the way we behave in court.³

I have trouble letting things go when something bothers me.

I like to lecture people on how to run their lives.

I have difficulty admitting mistakes to myself, and apologizing to others.

I tend to blame someone, other than myself, when something goes wrong.

I am galled when someone challenges my opinion or authority.

Control of the behavior of people in the courtroom is very difficult.

I am very impatient with lawyers who come to court unprepared.

Once I have made up my mind, I do not easily change it.

I have trouble making a decision.

The following conduct by lawyers or litigants makes me angry:[list].

I resent it when lawyers or pro pers do things that waste my time.

I like to make people laugh.

I often resort to sarcasm .

I must admit I enjoy the special deference given to judges.

I must admit I like the power which I have as a judge.

This sort of touchy-feely exercise is waste of time.

The trick in all this is to move away from a fatal triad (*stimulus > emotional response > maladaptive reaction*), which operates on autopilot, to awareness and consciousness of what is happening and how you are responding (“seeing the ice on the road”).

9. A practical guide to avoiding demeanor misconduct.

A solution that requires every judge to undergo lengthy psychoanalysis is unlikely to be approved by the Judicial Council under the current budget constraints, so we need something for the world of reality, for the here and now. Whatever the cause and however manifest, judges can avoid judicial misconduct related to demeanor. Here are my suggestions:

Step I. Articulate your legitimate goals and objectives.

A trial judge needs to develop a good sense of the legitimate goals and objectives of judicial office. Try to articulate to yourself (you might even try to write them down) the goals and objectives of what it is you are supposed to be doing in the courtroom, whether in the course of a trial, mass arraignment court, law and motion hearing, and so on. Try to put the fundamental goals and objectives into clear and simple terms, and the particular goals and objectives into concrete terms (e.g., I need to decide the amount of temporary spousal and child support, based on the facts of the case, support guidelines and other applicable rules for such a determination). The more general goals might, obviously, include rendering equal justice under law, maintaining the honesty and integrity of judicial decisions, maintaining the independence of the judiciary, maintaining the dignity and decorum of the court, and so forth.

Step II. Develop the mental habit of monitoring *everything* you do and say to be sure it is in the service of the goals and objectives.

Anyone in a position of authority and power, whether a judge, corporate

³ As you review this list, which is not intended to be comprehensive, what other human qualities and vulnerabilities can you think of that impact judicial demeanor?

executive, or a commanding officer, needs to monitor what he or she says or does in the following terms (some of these restate one another in differing ways):

- † learn what sorts of stresses and strains occur in the job that cause emotional (non-reflective) responses in you that do not serve the articulated goals and objectives (see Step I);
- † become conscious of *everything that you do or say*, and, in time, become conscious of it *before* you say and do it;
- † learn to get a sense of how your words or actions are being perceived by those that you are addressing;
- † become conscious of how your words or actions serve the articulated legitimate goals and objectives; and
- † learn how to always monitor your words and actions so that they are never uttered or undertaken under the sway of emotion (e.g., hurt feelings, anger, vengeance, etc.);
- † should you determine, however, that an “emotional” appearing response is appropriate and necessary, be sure: that it is consciously calculated; that it is employed in a measured way; and that it is directly in the service of a legitimate goal or objective and not in the service of the judge’s personal or emotional needs (see Aristotle quote in §2.42). It is not inappropriate to be strong, firm, and, at times, disapproving.

In time such a process will become second nature.

As a judge, you are a person in a position of great power over others, and, as such, you must be acutely responsible for what you say and do. Self awareness is one of the hallmarks of judicial professionalism (think back on the great judges you have known). You are not on the bench to free associate, to improvise, fill up your ego, to entertain yourself and others, or to give free reign to your emotional reactions to all the things that take place in your court. You are not there as an unruly puppy who barks at everyone who passes by. What you say must be measured, targeted, carefully focused, well tuned and directed at achieving the legitimate judicial goals and objectives. Trouble occurs when you lose your sense of who and where you are and what you are supposed to be doing, and, instead, react emotionally.⁴

⁴ Some of the discipline for failure to observe judicial demeanor in the past few years has included: disparaging comments to jurors about jury service, court administrators and other judges; discourteous or demeaning remarks to jurors; sexual harassment of staff; angry and profane confrontation with court staff; berating staff in the courtroom; improperly threatening and holding people in contempt; disparaging litigants and counsel; appearing to advocate one side in a case; demeaning and hostile remarks to an attorney seeking to correct an inaccurate order; displaying anger and rudeness to an attorney; displaying sarcasm and derision of pro pers; treating the courtroom environs as if it belonged to the judge; calling an attorney unethical and dishonest who had made allegations of misconduct of the judge; banishing people from the courtroom.